

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

SAMMYE A. RICHARDSON, et al.,

Plaintiffs,

vs.

FIRST AMERICAN FIELD SERVICES,
et al.,

Defendants.

No. CIV 04-542-TUC-CKJ

ORDER

On October 12, 2004, Plaintiffs¹ filed a Complaint that stated ten causes of action and referred to related state court matters. On October 26, 2004, Plaintiffs filed a First Amended Complaint that stated ten causes of action. The First Amended Complaint refers to related state court matters and lists multiple removal actions. On October 26, 2004, Plaintiffs also filed a Notice of Removal Pursuant to Arizona District Court Rule of Removal 23.2 (sic). Plaintiffs have filed numerous additional documents including "corrections" to the First Amended Complaint.

Defendants' Motions

Multiple defendants have filed motions for dismissal, remand, and/or more definite statement, etc. Rather than addressing each motion separately, the Court will review the

¹The caption and Identification of Parties section of the First Amended Complaint identify Sammye A. Richardson as plaintiff, intervener, custodian, and third-party claimant, Michael A. Richardson as plaintiff and intervener, and Rock of Gibraltar, L.L.C., as plaintiff.

(signature)

1) Pima County
Sup. Ct.
2) Kern County
CA, Sup. Ct.
3) Pima County
Justice Ct.
4) CV 85-287
(distributed -
CAB
12/20/04)

1 procedural inadequacies of the First Amended Complaint. *See Ledford v. Sullivan*, 105 F.3d
2 354 (7th Cir. 1997) (where the inadequacy of the complaint is apparent as a matter of law,
3 the court may dismiss the complaint on its own initiative). Upon the Court's determination,
4 if any, that Plaintiffs have presented a viable complaint as discussed *infra*, Defendants may
5 resubmit any appropriate motions.

6 The Court does find it appropriate, however, to specifically address Defendants Ulan
7 Family Limited Partnership LLP and Malcolm Ryder's Motion for Costs and Stay [Doc. #
8 34]. Defendants rely on Rule 41(d), Fed.R.Civ.P., for their assertion that Plaintiffs should
9 be ordered to pay the costs of the previously dismissed action and these actions should be
10 stayed until Plaintiffs have complied with the order. Although some courts have found that
11 this authority is limited to those actions in which plaintiff has voluntarily dismissed the
12 action, *see e.g., Duchardt v. Ewing*, 571 F.2d 869 (5th Cir. 1978), other courts have relied
13 upon the court's inherent authority to prevent oppressive, harassing, and vexatious litigation
14 to find the court has the authority to order costs of a previous suit that has been involuntarily
15 dismissed. *Hacopian v. United States Dept. of Labor*, 709 F.2d 1295 (9th Cir. 1983). The
16 Court declines, however, to find an award of costs to be appropriate.

17
18 *Plaintiffs Opposition to Pro Hac Vice Representation of David Roberts*

19 Plaintiffs assert attorney David Roberts should be precluded from representing the
20 City of Bakersfield because he may have committed wrongful acts and he may become a
21 witness in this matter. However, the Court does not find it appropriate to limit a parties'
22 choice of counsel in this matter.

23
24 *Removal*

25 A defendant may remove a civil action within thirty days after a defendant has been,
26 for example, served with the action. 28 U.S.C. § 1446. However, the removal statutes do
27 not discuss the removal of multiple actions into one federal action. Rather, the Court is to
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1 determine if actions should be consolidated. *See* Rule 42(a), Fed.R.Civ.P.; Rule 42.1, Rules
2 of Practice of the United States District Court for the District of Arizona (“Local Rules”).
3 The removal statutes are to be strictly construed. *Shamrock Oil & Gas Corp. v. Sheets*, 313
4 U.S. 100, 108-09, 61 S.Ct. 686, 872, 85 L.Ed.1214 (1941). Federal courts are to decline
5 jurisdiction if there is any doubt as to the propriety of removal. *Duncan v. Stuetzle*, 76 F.3d
6 1480, 1485 (9th Cir. 1996). Plaintiffs have not provided the Court with any authority to
7 allow the removal of multiple actions into this single federal action rather than the individual
8 removal of each case followed by a request for the Court to determine whether the actions
9 should be consolidated. Remand on this basis alone is appropriate. *See Duncan v. Stuetzle*,
10 76 F.3d 1480, 1485 (9th Cir. 1996) (federal courts will decline jurisdiction if there is any
11 doubt as to the propriety of removal).

12 Moreover, Plaintiffs' Notice and Motion to Take Judicial Notice of “Removal” of
13 Cases Pursuant to Arizona District Court Rules of Removal 23.3 (sic)² refers to removal of
14 an action that has been “approved for appellate court,” “closed cases,” and “one closed
15 district court matter”. An action “approved for appellate court” and “closed cases”
16 necessarily brings into question whether the removal has been made within thirty days of
17 Plaintiffs' receipt of the action. Additionally, “one prerequisite for removal jurisdiction is
18 that the case originated in state court.” *Cogdell v. Wyeth*, 366 F.3d 1245, 1248 (11th Cir.
19 2004); *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392, 107 S.Ct. 2425, 2429 (1987) (“[o]nly
20 state-court actions that originally could have been filed in federal court may be removed to
21 federal court”). A “closed district court matter” may not be “removed” to this Court.
22 Moreover, a number of Plaintiffs' pleadings refer to removal from the superior court of Kern
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24 ²In subsequent pleadings, Plaintiffs clarify that they are relying upon Rule 2.23, Local
25 Rules. The Local Rules were amended, effective December 1, 2004, and were completely
26 renumbered. The current version of the Local Rules, as well as tables cross-referencing the
27 former and new rules, are available on the Court’s website: www.azd.uscourts.gov. The
28 parties are directed to cite to the current version of the Local Rules in any filings with the
Court.

1 County, California. A defendant must "remove the case to the proper federal district court."
2 *Id.*; *see also* 28 U.S.C. § 1441(a) (the proper court is designated as the "district and division
3 embracing the place where such action is pending"); *but see, Mortensen v. Wheel Horse*
4 *Products, Inc.*, 772 F.Supp. 85, 89 (N.D.N.Y. 1991) (removal of an action to a wrong district
5 is not a jurisdictional defect, but is "akin to an improper venue situation" which may be
6 remedied by transferring the action to the proper district).

7 Plaintiffs' pleadings refer to themselves as plaintiffs, interveners, custodians, and
8 third-party claimants and refers to counter suits. However, removal provisions proscribe that
9 a civil action "may be removed by the defendant or defendants[.]" 28 U.S.C. § 1441(a). In
10 other words, even Plaintiffs' pleadings reflect an improper removal.

11 The Court is unable to completely ascertain which "removed" actions are from which
12 other court(s).³ The Clerk of the Court will be directed, therefore, to send a certified copy
13 of this Order to the Pima County Superior Court, the Kern County, California, Superior
14 Court, and the Pima County Justice Court. The Clerk of the Court will also be directed to
15 place a copy of this Order in CIV 85-287.⁴ Plaintiffs will be directed to file a document with
16 the Court advising the Court of any additional courts in which a Notice of Removal has been
17 filed relating to this matter within fourteen (14) days of this Order.

18
19 *First Amended Complaint*

20 The Court recognizes that, rather than attempting to remove actions, Plaintiffs may
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22 ³Indeed, although Plaintiffs' documents refer to a bankruptcy matter, the case number
23 of 02-10465-A-7 from the Bankruptcy Court of the Eastern District of California, Fresno
24 Division, is not included as a "removed" action. It does not appear that the bankruptcy
25 matter is one of the matters attempted to be removed by Plaintiffs. Moreover, although
26 documents from the Pima County Justice Court have been attached to some of Plaintiffs'
27 pleadings, Plaintiffs' pleadings do not clearly delineate which cases are from the Pima County
28 Superior Court and which are from the Pima County Justice Court.

⁴Plaintiffs refer to this case as both CIV 85-287-TUC-RMB and CIV 85-287-TUC-
JMR.

1 be attempting to initiate a separate action. A complaint is to contain a "short and plain
2 statement of the claim showing that the pleader is entitled to relief[.]" Rule 8(a),
3 Fed.R.Civ.P. A complaint must set forth a set of facts that serves to put defendants on notice
4 as to the nature and basis of the claim(s). Furthermore, all allegations of a claim are to be
5 set forth in numbered paragraphs that should be limited to a single set of circumstances. Rule
6 10(a), Fed.R.Civ.P. "Each claim . . . shall be stated in a separate count . . . whenever a
7 separation facilitates the clear presentation of the matters set forth." *Id.* Failure to set forth
8 claims in such a manner places the onus on the court to decipher which, if any, facts support
9 which claims, as well as to determine whether a plaintiff is entitled to the relief sought.
10 *Haynes v. Anderson & Strudwick, Inc.*, 508 F.Supp. 1303 (D.C.Va. 1981). Enforcement of
11 this rule is discretionary with the Court, but such enforcement is appropriate where it is
12 necessary to facilitate a clear presentation of the claims. *See, Benoit v. Ocwen Financial*
13 *Corp., Inc.*, 960 F.Supp. 287 (S.D.Fla. 1997), affirmed 162 F.3d 1177 (compliance with rule
14 required where allegations were so confusing and conclusory, claims were commingled, and
15 impossible to determine nature of claims).

16 Plaintiffs' First Amended Complaint is replete with confusing and conclusory
17 allegations. The commingling of facts and claims have placed the onus on the Court to
18 decipher which, if any, facts support which claims. Plaintiffs' First Amended Complaint is
19 "so verbose, confused and redundant that its true substance, if any, is well disguised."
20 *Corcoran v. Yorty*, 347 F.2d 222, 223 (9th Cir. 1965). The First Amended Complaint does
21 not provide fair notice to Defendants as to Plaintiffs' claims and the grounds upon which they
22 rest. *See Leatherman v. Tarrant County Narcotics Intelligence & Corrdination Unit*, 507
23 U.S. 163, 168, 113 S.Ct. 1160, 1163, 122 L.Ed.2d 517 (1993).

24 Furthermore, federal courts are not to infer allegations support federal subject matter
25 jurisdiction. *Shipping Financial Services Corp. v. Krakos*, 140 F.3d 129, 131 (2nd Cir.
26 1998). Plaintiffs must allege sufficient facts to raise a "colorable" constitutional claim. *Hoye*
27 *v. Sullivan*, 985 F.2d 990, 991 (9th Cir. 1993). A review of the parties does not show
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1 complete diversity of citizenship; therefore, a federal claim must be presented.

2 Plaintiffs' First Amended Complaint does not set forth separate claims supported by
3 separate facts, the claims are conclusory and commingled, and it is impossible for the Court
4 to determine if Plaintiffs are attempting to remove actions, set forth counterclaims or cross-
5 claims, or set forth entirely new claims. The Court finds it appropriate, therefore, to dismiss
6 the Complaint. However, Plaintiffs should have an opportunity to file an amended
7 complaint. *Bank v. Pitt*, 928 F.2d 1108, 1112 (11th Cir. 1991), *overruled on other grounds*
8 (*pro se* plaintiff should be given at least one chance to amend complaint before dismissing
9 complaint with prejudice when a more carefully drafted complaint *might* state a claim)

11 *Second Amended Complaint*

12 If Plaintiffs choose to submit a Second Amended Complaint, the Court advises
13 Plaintiffs that the complaint must set forth a set of facts that serves to put defendants on
14 notice as to the nature and basis of the claims such that the claims are not commingled or
15 conclusory. Moreover, the claims, and the facts to support them, must be clearly presented
16 in such a manner that the onus is not placed on the Court to decipher which, if any, facts
17 support which claims. Indeed, Plaintiffs must clearly state what conduct has been committed
18 by which defendant such that a cause of action is alleged. Plaintiffs cannot simply refer to,
19 for example, "agents" or "defendants." Moreover, Plaintiffs cannot simply make conclusory
20 allegations such as, for example, defendants "conspired or agreed"; rather, Plaintiffs must set
21 forth which facts support such an allegation. Additionally, the Court finds it appropriate to
22 review Plaintiffs' attempted claims to set forth the requirements of each claim.

24 *Count I – Racketeer Influenced and Corrupt Organization ("RICO")*

25 In their Count I, Plaintiffs allege FATCO, its affiliates, and subsidiaries, its agents and
26 employees, its attorneys, Defendants Sanchez, Chambers, Locklear, RAR, trustee in
27 Bankruptcy Randall Parker and its attorney and other defendants' associates engaged in
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1 continuous related and continuous multiple schemes that resulted in injury to Plaintiffs.
2 Plaintiffs allege an ongoing "crime spree" that included fraud, embezzlement, nondisclosure,
3 and kickbacks. In making these allegations, Plaintiffs do not clearly set forth which
4 defendant(s) committed which acts.

5 Plaintiffs are advised that, to state a civil claim for a RICO violation, a plaintiff must
6 allege: (1) conduct, (2) of an enterprise, (3) through a pattern (4) of racketeering activity.
7 See *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479, 496, 105 S.Ct. 3275, 87 L.Ed.2d 346
8 (1985). Moreover, a plaintiff must allege facts which show that the group or enterprise has
9 some function wholly unrelated to the racketeering activity. *United States v. Turkette*, 452
10 U.S. 576, 583, 101 S.Ct. 2524, 69 L.Ed.2d 246 (1981); see also *Chang v. Chen*, 80 F.3d
11 1293, 1299 (9th Cir. 1996). In order to successfully plead the enterprise element of a RICO
12 violation, a plaintiff must allege that the defendant was a person who either acquired an
13 enterprise, associated with an enterprise, or conspired with another to acquire or associate
14 with an enterprise. *Id.* But, "a group whose members collectively engage in an illegal act,
15 in-and-of-itself, does not constitute an 'enterprise' for the purposes of RICO." *Id.*

16 Although the facts are not clearly set forth, it appears that Plaintiffs have alleged that
17 a group of defendants engaged in illegal acts. However, Plaintiffs have not even alleged that
18 the group of defendants collectively engaged in illegal acts, let alone that the group of
19 defendants acted as an enterprise. Plaintiffs are advised that the failure to adequately plead
20 a claim for a RICO violation will obviate any argument for supplemental subject matter
21 jurisdiction over the state law claims.

22 23 *Count II – Fraud, Negligent Concealment and Fraudulent Misrepresentation*

24 Plaintiffs are advised that to state a claim of fraud, a plaintiff must allege that "the
25 defendant made a false, material representation that he knew was false or was ignorant of its
26 truth, with the intention that the hearer of the representation act on it in a manner reasonably
27 contemplated, that the hearer was ignorant of the representation's falsity, rightfully relied on
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1 the truth of the representation, and sustained consequent and proximate damage." *Haisch v.*
2 *Allstate Insurance Co.*, 197 Ariz. 606, 5 P.3d 940 (App. 2000).

3 A claim of fraudulent concealment requires a concealment of facts which a party is
4 under a legal or equitable obligation to communicate. *Schock v. Jacka*, 105 Ariz. 131, 460
5 P.2d 185 (1969); *Dunlap v. City of Phoenix*, 169 Ariz. 63, 817 P.2d 8 (App. 1990); *Wells*
6 *Fargo Bank v. Arizona Laborers, Teamsters and Cement Masons Local No. 395 Pension*
7 *Trust Fund*, 201 Ariz. 474, 38 P.3d 12 (2002).

8 Moreover, a claim of negligent misrepresentation requires a defendant:

9 who, in the course of his business, profession or employment, or in any other
10 transaction in which he has a pecuniary interest, supplies false information for the
11 guidance of others in their business transactions, is subject to liability for pecuniary
12 loss caused to them by their justifiable reliance upon the information, if he fails to
13 exercise reasonable care or competence in obtaining or communicating the
14 information.

15 *Kuehn v. Stanley*, 208 Ariz. 124, 127, 91 P.3d 346, 349 (App. 2004), *quoting* Restatement
16 (Second) of Torts § 522(1) (1977).

17 *Count III – Conspiracy*

18 A claim of civil conspiracy requires an allegation that "two or more people must agree
19 to accomplish an unlawful purpose or to accomplish a lawful object by unlawful means,
20 causing damages." *Wells Fargo Bank*, 201 Ariz. at 498, 38 P.3d at 36.

21 *Count IV – Interference with Contractual Relationships*

22 To state a claim for the tort of intentional interference with contractual relations,
23 Plaintiffs must allege: "(1) the existence of a valid contractual relationship, (2) knowledge
24 of the relationship on the part of the interferor, (3) intentional interference inducing or
25 causing a breach, (4) resultant damage to the party whose relationship has been disrupted,
26 and (5) that the defendant acted improperly." *Safeway Insurance Co., Inc. v. Guerrero*, 207
27 Ariz. 82, 86, 83 P.3d 560, 564 (App. 2004), *quoting Wells Fargo Bank*, 201 Ariz. at 493, 38
28 P.3d at 31.

1 *Count V – Intentional Infliction of Emotional Distress*

2 To state a claim for intentional infliction of emotional distress, Plaintiffs must allege
3 that "defendant's conduct was extreme and outrageous, causing plaintiff severe emotional
4 distress; physical injury need not occur." *Duke v. Cochise County*, 189 Ariz. 35, 38, 938 P.2d
5 84, 87 (App. 1997).

6
7 *Count VI – Interference with Business*

8 To state a claim for intentional interference with business expectation, Plaintiffs must
9 allege:

- 10 (1) The existence of a valid contractual relationship or business expectancy;
11 (2) knowledge of the relationship or expectancy on the part of the interferor;
12 (3) intentional interference inducing or causing a breach or termination of the
relationship or expectancy; and
(4) resultant damage to the party whose relationship or expectancy has been disrupted.

13 *Hirsch v. Cooper*, 153 Ariz. 454, 459, 737 P.2d 1092, 1097 (App. 1987), *quoting Antwerp*
14 *Diamond Exch. v. Better Business Bureau*, 130 Ariz. 523, 529-30, 637 P.2d 733, 739-40
15 (1981).

16
17 *Count VII – Bad Faith and Intentional Misrepresentation*

18 It is unclear from Plaintiffs First Amended Complaint if Plaintiffs are attempting to
19 set forth two separate claims in this cause of action. It does not appear that Plaintiffs are
20 even attempting to state a claim for bad faith by an insurer, which requires allegations "(1)
21 that the insurer acted unreasonably toward its insured, and (2) that the insurer acted knowing
22 that it was acting unreasonably or acted with such reckless disregard that such knowledge
23 may be imputed to it." *Miel v. State Farm Mutual Automobile Ins. Co.*, 185 Ariz. 104, 912
24 P.2d 1333 (App. 1996), *citing Trus Joist Corp. v. Safeco Ins. Co. of America*, 153 Ariz. 95,
25 104, 735 P.2d 125, 134 (App. 1986). Plaintiffs may be attempting to state a claim for a
26 breach of the covenant of good faith and fair dealing, which the Court will discuss *infra*.

27 To state a claim for intentional misrepresentation or fraud, Plaintiffs must allege: (1)
28

1 a representation, (2) its falsity, (3) its materiality, (4) the speaker's knowledge of its falsity
2 or ignorance of its truth, (5) the speaker's intent that the representation should be acted upon
3 by the person and in a manner reasonably contemplated, (6) the hearer's ignorance of its
4 falsity, (7) the hearer's reliance on the truth of the representation, (8) the hearer's right to rely,
5 and (9) the hearer's consequent and proximate injury. *Knoell v. Cerkenik-Anderson Travel*,
6 *Inc.*, 181 Ariz. 394, 891 P.2d 861 (App. 1994), *vacated on other grounds*.

7
8 *Count VIII – Conversion and Unlawful Control*

9 To state a claim for conversion, Plaintiffs must allege an "act of dominion wrongfully
10 asserted over another's personal property in denial of or inconsistent with that person's rights
11 in the property." *Mezey v. Fioramonti*, 204 Ariz. 599, 608, 65 P.3d 980, 989 (App. 2003);
12 *see also Focal Point, Inc. v. U-Haul Co. of Arizona, Inc.*, 155 Ariz. 318, 746 P.2d 488 (App.
13 1986).

14
15 *Count IX – Breach of Implied Covenant of Good Faith and Fair Dealing*

16 In Arizona, a covenant of good faith and fair dealing is implied in every contract.
17 *Enyart v. Transamerica Ins. Co.*, 195 Ariz. 71, 985 P.2d 556 (1998). To state a claim for
18 a breach of implied covenant of good faith and fair dealing, Plaintiffs must allege that
19 defendants acted to impair the right of Plaintiffs to receive the benefits which flow from the
20 agreement or contractual relationship." *Southwest Savings and Loan Assoc. v. Sunamp*
21 *Systems, Inc.*, 172 Ariz. 553, 838 P.2d 1314 (App. 1992), *quoting Rawlings v. Apodaca*, 151
22 Ariz. 149, 153-54, 726 P.2d 565, 569-70 (1986). If the action is brought in tort rather than
23 in contract, Plaintiffs must allege a "special relationship between the parties arising from
24 elements of public interest, adhesion, and fiduciary responsibility." *Wells Fargo Bank*, 201
25 Ariz. at 491, 38 P.3d at 29, *quoting Burkons v. Ticor Title Insurance Co. of California*, 168
26 Ariz. 345, 355, 813 P.2d 710, 720 (1991).

1 *Count X – Violations Listed Under JS 44*

2 Plaintiffs refer to the Civil Cover Sheet (Form JS 44) as their tenth cause of actions.
3 Plaintiffs are advised that each cause of action must be sufficiently alleged in the Second
4 Amended Complaint.

5
6 *Service of Process and Adequacy of Amended Complaint*

7 In filing this action as a removal action, it does not appear that Plaintiffs have
8 complied with service requirements. Plaintiffs are advised that, because the Court has found
9 removal to be inappropriate, Plaintiffs are responsible for adequate service of the Second
10 Amended Complaint and Summons on Defendants. Rule 4(c)(1), Fed.R.Civ.P. Absent
11 service of process, waiver of service or a voluntary appearance, Defendants are not required
12 to take any action. "[O]ne becomes a party officially, and is required to take action in that
13 capacity, only upon service of a summons or other authority-asserting measure stating the
14 time within which the party served must appear and defend." *Murphy Bros., Inc. v. Michetti*
15 *Pipe Stringing, Inc.*, 526 U. S. 344, 350, 119 S.Ct. 1322, 1327, 143 L.Ed.2d 448 (1999). The
16 Court refers Plaintiffs to Rules 4 and 5, Fed.R.Civ.P.

17 However, in light of the conclusory allegations and unclear presentation of claims in
18 the First Amended Complaint, the Court finds it appropriate to review the Second Amended
19 Complaint before requiring Plaintiffs to effectuate service upon Defendants. Accordingly,
20 Plaintiffs are advised that they shall not effectuate service upon Defendants until the Court
21 has reviewed any Second Amended Complaint and notifies Plaintiffs that procedural
22 requirements, including allegations to establish subject matter jurisdiction, have been met.

23 Defendants are advised that they are not required to file any Answer or dispositive
24 pleading until the Court directs Plaintiffs to effectuate service upon them and Plaintiffs have
25 effectuated service upon them. If appropriate, any service irregularities may then be
26 presented to the Court pursuant to Rules 12(b)(4) and (5), Fed.R.Civ.P.

1 *Returned Mail*

2 The Clerk of the Court has advised the Court that it is in receipt of two pieces of mail
3 that have been delivered to them as the "return addressee" on the envelope. The envelopes
4 include documents that indicate that the mail was initiated by Plaintiffs. Plaintiffs are
5 advised that the Clerk of the Court is not a repository for returned mail of litigants. Plaintiffs
6 are further advised that the Clerk of the Court will be directed to discard any further
7 "returned mail" that has been initiate by Plaintiffs. However, the Clerk of the Court will be
8 directed to return to Plaintiffs the two pieces of mail already received by the Clerk of the
9 Court.

10
11 *Hearing Dates*

12 Documents submitted by Plaintiffs purport to schedule hearings. Plaintiffs are advised
13 that the Court will set any hearing(s) that it deems appropriate. Plaintiffs shall not "schedule"
14 any further hearings.

15
16 *Miscellaneous*

17 Plaintiffs should take notice that if they fail to timely comply with every provision of
18 this Order, this action will be dismissed pursuant to Rule 41(b), Fed.R.Civ.P. *See Ferdik v.*
19 *Bonzelet*, 963 F.2d 1258 (9th Cir.) (District Court may dismiss action for failure to comply
20 with any order of the Court), *cert. denied*, 506 U.S. 915 (1992).

21
22 Accordingly, IT IS ORDERED:

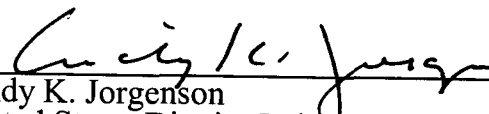
- 23 1. Defendants Ulan Family Limited Partnership LLP and Malcolm Ryder's
24 Motion for Costs and Stay [Doc. # 34] is DENIED;
25 2. Cause Numbers Civ. No. S-1500-CV 253558, Civ. No. S-1500-CV 250894,
26 Civ. No. 2003-CV S-1500-CL-190453, Civ. No. S-1500-CV-251345, Civ. No.
27 2004-CV 6160 LM, Civ. No. 2003-CV 6049, Civ. No. 2004-CV 4847 S, Civ.

No. T.20021192, CV89-002939 T-29543, T20021083, T20030984,
T20040603, CIV 85-287 TUC RMB are REMANDED;

3. The Clerk of the Court shall mail a certified copy of this Order to the Clerk of the Pima County Superior Court, the Clerk of the Kern County, California, Superior Court, and the Pima County Justice Court. The Clerk of the Court shall also place a copy of this Order in CIV 85-287;
4. Plaintiffs shall file a document with the Court advising the Court of any additional courts in which a Notice of Removal has been filed relating to this matter within fourteen (14) days of this Order.
5. Plaintiffs' First Amended Complaint is DISMISSED WITHOUT PREJUDICE, WITH LEAVE TO AMEND. Plaintiffs shall have thirty (30) days from the date of filing this Order to file a Second Amended Complaint.
6. Any Second Amended Complaint filed by Plaintiffs must be retyped or rewritten in its entirety and may not incorporate any part of the original Complaint or subsequent pleadings by reference. Any Second Amended Complaint submitted by Plaintiffs should be clearly designated as an amended complaint on the face of the document;
7. Any Second Amended Complaint shall contain all of Plaintiffs allegations – Plaintiffs shall not submitted "corrections" to the Second Amended Complaint. If Plaintiffs discover errors in the Second Amended Complaint prior to the Court issuing an Order regarding the Second Amended Complaint, Plaintiffs shall request leave to submit a Third Amended Complaint;
8. Plaintiffs' Opposition to the *Pro Hac Vice* representation of David Roberts is DENIED;
9. Any and all other pending motions are DENIED as moot;
10. The Clerk of the Court is DIRECTED to enter a judgment of dismissal, without prejudice, without further notice to Plaintiffs, if Plaintiffs fail to file

1 an amended complaint within thirty (30) days of the filing date of this Order.
2 11. At all times during the pendency of this action, Plaintiffs shall immediately
3 advise the Court of any change of address and its effective date. Such notice
4 shall be captioned "NOTICE OF CHANGE OF ADDRESS". The notice shall
5 contain only information pertaining to the change of address and its effective
6 date. The notice shall not include any motions for any other relief. Plaintiffs
7 shall serve a copy of the Notice of Change of Address on all served opposing
8 parties. Failure to file a NOTICE OF CHANGE OF ADDRESS may result in
9 the dismissal of the action for failure to prosecute pursuant to Rule 41(b),
10 Fed.R.Civ.P.

11 DATED this 17 day of December, 2004.

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14 
15 Cindy K. Jorgenson
16 United States District Judge
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